

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

KIMBERLY FRALEY
326 LAFAYETTE AVENUE
URBANA, OHIO 43078

CASE NO. 3:24-cv-45

AND

JAMES FRALEY
326 LAFAYETTE AVENUE
URBANA, OHIO 43078,

(Removed from the Champaign County
Court of Common Pleas, Case No.
24CV008)

Plaintiffs,

vs.

**PROPERTY AND CASUALTY
INSURANCE COMPANY OF HARTFORD**
201 NORTH ILLINOIS ST., 16TH FLOOR
INDIANAPOLIS, INDIANA 46204

AND

**HARTFORD CASUALTY INSURANCE
COMPANY**
201 NORTH ILLINOIS ST., 16TH FLOOR
INDIANAPOLIS, INDIANA 46204

AND

**HARTFORD ACCIDENT AND
INDEMNITY COMPANY**
ONE HARTFORD PLAZA
HARTFORD, CONNECTICUT 06155

AND

**HARTFORD INSURANCE COMPANY OF
THE MIDWEST**
201 NORTH ILLINOIS ST., 16TH FLOOR
INDIANAPOLIS, INDIANA 46204

AND

**HARTFORD INSURANCE COMPANY OF
THE SOUTHEAST**
ONE HARTFORD PLAZA
HARTFORD, CONNECTICUT 06155

AND

TRUMBULL INSURANCE COMPANY
ONE HARTFORD PLAZA
HARTFORD, CONNECTICUT 06155

AND

**THE HARTFORD FINANCIAL
SERVICES GROUP, INC.**
690 ASYLUM AVENUE
HARTFORD, CONNECTICUT 06155

Defendants.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendants Property and Casualty Insurance Company of Hartford, Hartford Casualty Insurance Company, Hartford Accident and Indemnity Company, Hartford Insurance Company of the Midwest, Hartford Insurance Company of the Southeast, Trumbull Insurance Company, and The Hartford Financial Services Group, Inc. (collectively, the “Hartford defendants”), by and through the undersigned counsel, respectfully give notice of the removal of the above-captioned case from the Court of Common Pleas, Champaign County, Ohio, Case No. 24CV008, to the United States District Court for the Southern District of Ohio, Western Division, at Dayton, on the following grounds:

1. On or about January 16, 2024, plaintiffs Kimberly and James Fraley filed a complaint in the Court of Common Pleas, Champaign County, Ohio, Case No. 24CV008 (the “Fraley Complaint”).

2. The Hartford defendants began receiving service of summons of the Fraley Complaint on or about January 22, 2024.

3. The above-captioned case is a civil action brought by plaintiffs to recover alleged damages in connection with the denial of insurance coverage for losses allegedly incurred by plaintiffs. See Fraley Complaint. Plaintiffs assert claims for alleged breach of contract, seeking compensatory damages in excess of \$25,000.00. See id. at ¶ 25. Plaintiffs further assert a claim of bad faith, seeking compensatory damages in excess of \$25,000.00, and punitive or exemplary damages in excess of \$25,000.00. See id. at duplicative paragraph 23 and 24 (on page 10).¹ Plaintiffs also request attorney's fees and costs and pre-judgment interest. See id.

4. This Court has original jurisdiction over this civil action based on diversity of citizenship jurisdiction pursuant to 28 U.S.C. § 1332.

Diversity Jurisdiction

5. With respect to diversity of citizenship jurisdiction, this action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) because:

a. This action involves a controversy arising between citizens of different states:

1) According to the complaint allegations, plaintiffs are now, and/or was at the time of commencement of this action, residents of the state of Ohio. See Fraley Complaint at ¶¶ 1, 2. They therefore are citizens of Ohio for purposes of diversity jurisdiction.

2) Although Plaintiffs named seven separate Hartford-related companies as defendants, only one of these companies issued the

¹ The Hartford defendants note that plaintiffs' complaint appears to use incorrect numbers following paragraph 28 on page 10, after which the paragraph numbering restarts and paragraph 22.

insurance policy in question – Trumbull Insurance Company (“Trumbull”). Trumbull, having issued the subject policy, is the proper defendant with respect to the subject matter alleged (although it denies the allegations against it). Trumbull is a Connecticut corporation that has its principal place of business in Hartford, Connecticut, and therefore is citizen of Connecticut for diversity jurisdiction purposes.

3) The remaining six Hartford defendants, other than Trumbull, are not proper defendants with respect to the subject matter alleged, and lack privity with plaintiffs with respect to the matters alleged. Regardless, even if these additional defendants are considered, complete diversity still exists on the basis of the citizenship of the defendants, as compared to the citizenship of the plaintiffs:

- i. Property and Casualty Insurance Company of Hartford is an Indiana corporation that has its principal place of business in Hartford, Connecticut;
- ii. Hartford Casualty Insurance Company is an Indiana corporation that has its principal place of business in Hartford, Connecticut;
- iii. Hartford Accident and Indemnity Company is a Connecticut corporation that has its principal place of business in Hartford, Connecticut;
- iv. Hartford Insurance Company of the Midwest is an Indiana corporation that has its principal place of business in

Hartford, Connecticut;

v. Hartford Insurance Company of the Southeast is a Connecticut corporation that has its principal place of business in Hartford, Connecticut; and

vi. The Hartford Financial Services Group, Inc. is a Delaware corporation that has its principal place of business in Hartford, Connecticut.

4) Complete diversity exists as between plaintiffs, on the one hand, and the Hartford defendants, on the other hand.

b. The amount in controversy in this action exceeds the sum of Seventy-Five Thousand Dollars (\$75,000.00). See Fraley Complaint at ¶ 25 (seeking compensatory damages for their breach of contract claim in excess of \$25,000.00); duplicative paragraph 23 (on page 10) (seeking compensatory damages for their bad faith claim in excess of \$25,000.00) and duplicative paragraph 24 (on page 10) (seeking punitive or exemplary damages for their bad faith claim in excess of \$25,000.00), and at “WHEREFORE” clause (on pages 10 and 11) (seeking compensatory and punitive or exemplary damages, and attorney’s fees and costs and prejudgment interest). Additionally, during the claims process, plaintiffs also submitted an October 24, 2023 repair estimate valued at over \$100,000 as part of the insurance claim that is the subject matter of the lawsuit.

While the Hartford defendants dispute plaintiffs’ entitlement to the

requested relief, if plaintiffs were to succeed on their claims, the jurisdictional threshold is met. See Total Quality Logistics, LLC v. Johnson, No. 1:21-CV-386, 2021 WL 2819840, at *6 (S.D. Ohio July 7, 2021) (amount in controversy met under similar circumstances). Further, Ohio law permits recovery of punitive damages of up to two times compensatory damages under O.R.C. 2315.21. See Shaffer v. Brink's U.S., No. 2;10-CV-331, 2010 WL 2302355, at *2 (S.D. Ohio June 8, 2010) (punitive damages considered when finding amount in controversy satisfied). Because plaintiffs seek in excess of \$25,000 on their breach of contract claim, and claim separate bad faith damages in excess of \$25,000, with the capacity to seek punitive damages on their bad faith claim at up to two times their bad faith damages, the amount in controversy exceeds \$75,000.

6. Accordingly, because the diversity of citizenship and amount in controversy requirements are met, this action is removable to this Court pursuant to 28 U.S.C. § 1441(a).

Other

7. Champaign County, Ohio is within the territorial jurisdiction of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

8. Pursuant to 28 U.S.C. § 1446(a), this Notice of Removal includes a short and plain statement of the grounds for removal together with a copy of all process, pleadings, and orders served the Hartford defendants in this action.

9. Pursuant to 28 U.S.C. § 1446(d), the Hartford defendants have served, or will promptly serve, written notice of the filing of this Notice of Removal upon all parties to this

action, and will file a copy of the Notice of Removal, along with a Notice of Filing of Notice of Removal, in the Court of Common Pleas, Champaign County, Case No. 24CV008.

10. A copy of the Notice of Filing of Notice of Removal (without exhibits) is attached as Exhibit A.

11. Copies of the pleadings, and all other papers available on the state court docket in this action are attached as Exhibit B.

12. In the event plaintiffs seek to remand this case, or the Court considers remand sua sponte, the Hartford defendants respectfully request the opportunity to submit such additional argument or evidence in support of removal as may be necessary.

WHEREFORE, the Hartford defendants request that the action pending against them in the Court of Common Pleas, Champaign County, Ohio, Case No. 24CV008, be removed to the United States District Court for the Southern District of Ohio, Western Division, at Dayton, and that this Court assume jurisdiction of the matter pursuant to diversity jurisdiction and/or federal question jurisdiction of this Court.

Respectfully submitted,

/s/ Katheryn M. Lloyd

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Attorneys for All Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Removal was served on counsel of record on February 16, 2024 via electronic and ordinary U.S. Mail at the following address:

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